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DOCKET NO. 13-05

**COMMENTS OF ANK DE ROOS, VANGUARD LOGISTICS SERVICES (USA), INC. IN RESPONSE TO
AMENDMENTS TO REGULATIONS GOVERNING OCEAN TRANSPORTATION INTERMEDIARY
LICENSING AND FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES**

I am Ank de Roos, Director of Global Compliance for Vanguard Logistics Services (USA), Inc. dba Vanguard Logistics Services dba Vanguard dba Brennan International Transport dba Brennan dba Conterm Consolidation Services dba Conterm dba Direct Container Line dba DCL dba Ocean World Shipping dba OWS dba Ocean Express dba Oceanexpress and submit these comments in response to the Notice of Proposed Rulemaking ("NPRM") published in this docket October 9, 2014.

Vanguard is a leading, neutral NVOCC under license number 017237N operating 18 Offices in the US, and 63 Offices and a network of over 200 Agents globally. Vanguard is familiar with the issues raised by the NPRM and appreciates the opportunity to express the following concerns.

FMC's proposal to require all forwarders and NVOCCs to renew licenses every two years by filing an application.

1. We believe this creates an unnecessary burden to both the OTIs and the Commission, because all OTIs are already required to keep the Commission informed of any changes in their corporate structure, Officers and Directors, and locations of their headquarters and branch offices.
2. Even if the information is provided online, a renewal process means the agency will be required to review the data and renew the licenses; however, the Commission has neither the staff nor budget to handle the added burden of doing this every two years for all OTIs.
3. It is unclear whether claims by shippers or carriers or the pendency of some investigation by BOE would jeopardize the license renewal. If so, that would put the OTI's license at inappropriate risk.
4. If the Commission is concerned that some OTIs are not complying with the obligation of updating the Commission of any changes in their corporate structure, and believes there really is a need for new regulation in this area, a simple tri-annual updating of corporate information should suffice without requiring a formal application. Tri-annual reporting, rather than license renewal would ensure information is updated.

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FMC's proposal requiring that the three years of experience for a potential Qualifying Individual must be based on work done while employed by a licensed OTI, shipper or VOCC.

1. We agree that the existing 30-day period to report any change in QI status is retained, instead of previously proposed 15 days.

FMC's proposal to delete reference to "Ocean Freight Broker".

1. The NPRM proposes to delete reference to ocean freight brokers. Further clarification is needed as to why this reference is being deleted.

FMC's proposal to require sureties to provide information to the Commission on any claims that have been submitted against any OTI that relate in any way to the transportation activities of an OTI.

1. While the Commission has dropped the original proposal to publish any claims that have been submitted against any OTIs on its website, the NPRM would still require sureties to provide that information to the Commission. We question the rationale for adding such a regulation, especially when it appears that this is singling out OTIs while disregarding claims parties filed against vessel or marine terminal operators.
2. The NPRM does not indicate whether this data will be protected from public disclosure, given that the release of this data could adversely affect the business reputation of an OTI.
3. There is no necessary relationship between the mere filing of a claim with a surety and the character of that OTI. Even with a disclaimer that the Commission is not making any judgment about the veracity of the allegations, any release of this type of information could have an unfair, damaging effect on the OTI's reputation.
4. Demurrage and detention claims that are made against OTIs often exceed the economic value of the container and are frequently based on events over which the OTI has any control.

FMC's proposed regulations precluding any advertising unless in possession of OTI license or registration

1. It is not clear which parties would be covered by the regulation; for example, OTIs might engage any number of third parties to provide a portion of the services OTIs contract to perform, such as drayage companies, railroads, truckers and even steamship lines. Are such companies all covered by this advertising prohibition?
2. Many of these companies provide a portion of OTI services but do not themselves actually book cargo or provide all of the OTI functions. It would therefore be very difficult, if not impossible, for these companies to obtain an OTI license or registration.



FMC's proposed regulations to eliminate the requirement for branch offices of OTIs to each maintain a \$10,000 bond.

1. Vanguard supports the proposal to eliminate the necessity of bond requirements for OTI unincorporated branch offices. This should reduce OTI costs and eliminate the necessity to continually obtain bond riders every time a branch office is added, removed, or an address is changed, without creating any significant risks for the shipping public.

FMC's proposal to new expedited hearing procedures for appealing OTI license denials, suspensions or revocations.

1. Given the importance of an OTI license, a full and fair opportunity for a hearing on a license denial, suspension or revocation requires an actual hearing with a hearing officer. Vanguard requests reinstitution of an actual hearing on merits. To deprive its 3000 employees of employment without a full hearing and due process would be shortsighted.
2. This new "streamlined" approach does not sufficiently recognize the importance of OTI licenses. Any shortcuts could jeopardize an OTI's ability to operate, and raises concerns about due process.
3. The Commission now publishes notice of each revocation and suspension on the Commission's Web site www.fmc.gov. However, no notification is provided to the trade when notices are published. We suggest for these notices to be added to the RSS Feeds.

FMC's proposal to authorize electronic certifications by Freight Forwarders

1. Compensation is paid only in those instances when it has been negotiated with a Freight Forwarder and of course, it is tariff filed. While Vanguard supports electronic certifications by Freight Forwarders, it would go further and either
 - a. request the Commission to allow for a one-time blanket certification from Freight Forwarders that the required Freight Forwarder services have been provided on all future shipments for which it is paid compensation, or
 - b. eliminate the requirement for Freight Forwarder certification all together. It should be the burden of the Freight Forwarder to prove that they provided the Freight Forwarding services.
2. It is understood that electronic certifications must contain confirmation by the Freight Forwarder. However, it is not clear why electronic certifications must contain confirmation by the *carrier* as stated in the NPRM?



Other Initiatives

There are other initiatives that we propose to the Commission for consideration in order to eliminate unnecessary regulatory burdens or otherwise facilitate the role of OTIs in the movement of traffic.

1. Total elimination of NVOCC rate tariff publication, so as to avoid any procedural requirements.
2. Total elimination of current NRA requirements. Or, while transitioning towards total elimination, allow for NRAs to be subject to rate changes.
3. Elimination of the requirement for NVOCCs to file NVOCC Service Agreements ("NSAs") and publish their essential terms.

Vanguard appreciates the opportunity to comment on the proposals set forth in the NPRM and the Commission's consideration of these comments.

Sincerely,

Ank de Roos
Director Global Compliance
Vanguard Logistics Services (USA), Inc.